

**MINUTES OF THE DECEMBER 2013 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held on Tuesday, December 10, 2013, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Representative Dawn Pettengill, Chair, and Senator Wally Horn, Vice Chair; Senators Mark Chelgren, Thomas Courtney, Pam Jochum [by teleconference], and Roby Smith [by teleconference]; Representatives Lisa Heddens, Rick Olson, Jeff Smith, and Guy Vander Linden were present.

Also present: Joseph A. Royce and Jack Ewing, Legal Counsel; Stephanie A. Hoff, Administrative Code Editor; Larry Johnson, Deputy Counsel, Office of the Governor; fiscal staff; caucus staff; and other interested parties.

Convened Rep. Pettengill convened the meeting at 9:35 a.m.

Fiscal overview Adam Broich explained the revised fiscal report format and presented the LSA fiscal report. Sen. Chelgren and Rep. Pettengill commended the usefulness of the new format.

Guest observers Rep. Heddens introduced seniors from Gilbert High School government classes who were visiting the Capitol to observe state government in action.

INSPECTIONS AND APPEALS DEPARTMENT David Werning and Steve Mandernach represented the department.

ARC 1190C No action on ch 30, food and consumer safety. Mr. Mandernach clarified for Sen. Horn that organic food products are overseen by the U.S. Department of Agriculture (USDA) and the agriculture and land stewardship department and that the labeling of organic food products is overseen by the department of inspections and appeals, i.e., the producer must verify for the department that the product is organic.

ARC 1191C No action on ch 31, food establishment and food processing plant inspections. Discussion pertained to the rationale for and responsibilities, coursework and training of certified food protection managers; the adoption by reference of the Food Code and food processing plant standards; and exemptions from regulation, e.g., raw, whole, uncut agricultural commodities.

ECONOMIC DEVELOPMENT AUTHORITY Tim Whipple represented the authority.

ARC 1175C No action on ch 200, reinvestment districts program.

EDUCATIONAL EXAMINERS BOARD Duane Magee, Joanne Tubbs and Darcy Lane represented the board.

ARC 1166C No action on amendments to 13.3 and 13.17(1) concerning the requirement that an out-of-state applicant provide a valid or expired license with an application for Iowa licensure. Mr. Magee and Ms. Tubbs addressed committee members' questions regarding the purpose for the amendments, background checks on prospective licensees, the expiration of out-of-state licenses, and the requirements for an Iowa license. Ms. Tubbs stated that the application form includes a question regarding the reason for the expiration of the candidate's out-of-state license. Mr. Magee added that as a member of the National Association of State Directors of Teacher Education and Certification (NASDTEC), the board may access a database that provides a record of sanctions and other actions that have been imposed on the licenses of prospective out-of-state candidates. Mr. Magee confirmed that these amendments will not lower the standards for Iowa teacher licensure.

ARC 1168C No action on amendments to 13.8 pertaining to the requirement that for a master educator's license, the applicant's degree must be granted by a regionally accredited college or university. In response to an inquiry from Sen. Chelgren, Ms. Tubbs explained regional accreditation by the Higher Learning Commission of the North Central Association of Colleges and Schools.

ARC 1182C No questions on proposed amendments to 13.16(1) requiring both Iowa and out-of-state graduates to pass the specified assessments for substitute licensure. Ms. Tubbs stated that no one attended the public hearing and no comments were received.

ARC 1181C The proposed amendment to 13.17(3)"a" pertains to an international exchange license. Ms. Tubbs clarified for Rep. Pettengill the time frame(s) of a license.

Educational Examiners Board (continued)

- ARC 1171C No action on amendments to chs 13 and 17 concerning engineering and STEM endorsements.
- ARC 1167C No action on amendments to 18.10 regarding demonstration of required experience by a superintendent/AEA administrator. Mr. Magee clarified for Sen. Chelgren that the required administrative experience must be in education, specifically, in PK-12.
- ARC 1180C Proposed 22.7 pertains to the Iowa jobs for America's graduates (iJAG) authorization. Discussion pertained to the educational backgrounds and certification of applicants and to funding for the iJAG program.
- ARC 1170C The amendments to 25.3(1) pertain to prohibited relationships between licensees and former students. Committee members noted that since publication of the notice, the board had reduced from 180 days to 90 days the time period during which a relationship between a practitioner and a former student is prohibited. However, members remained concerned that the amendments restrict the conduct of adults who are no longer associated with the school system. In addition, members stated that the 90-day limitation exceeded the provisions of the criminal code, which sets forth a 30-day limitation. Mr. Magee clarified that relationships occurring during days 31 to 90 of the 90-day period would constitute an ethics violation, not a criminal violation.
- Motion to delay Rep. Smith moved a session delay on 25.3(1).
- Motion carried On a roll call vote of 8 to 2, the motion carried.

ENVIRONMENTAL PROTECTION COMMISSION Joe Griffin and Daniel Olson represented the commission.

- ARC 1176C Proposed amendments to 64.6 and 64.15 pertain to notices of intent and transfer agreements related to storm water permits. Mr. Griffin clarified for Sen. Chelgren that a copy of the transfer agreement between the buyer and the seller need not be provided to the department because the responsibility for compliance rests with the seller.
- ARC 1177C Proposed amendments to 93.3(1) and 93.4(1) pertain to the onsite wastewater assistance program. Mr. Olson explained that the amendments allow homeowners who live within city limits to have access to loans through this program. In response to inquiries from Rep. Pettengill and Rep. Smith, Mr. Olson explained the costs and funding of individual loans under the program and described alternate funding sources for nonprofits through the USDA, the Iowa finance authority and the economic development authority.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg, Rick Shults, Teresa Armstrong and Jennifer Vermeer represented the department.

- ARC 1184C Proposed ch 22 pertains to the autism support program. In response to an inquiry from Rep. Heddens, Mr. Shults stated that the department will clarify in the definition of "autism service provider" the requirement for certification, which applies to the supervisor of staff. Ms. Armstrong clarified for Sen. Jochum that a request for proposal (RFP) is in development regarding telehealth intervention services. At the request of Sen. Jochum, Ms. Armstrong will provide the committee with the names of other department programs on which the cost-sharing information in 22.3(1) was based.
- ARC 1173C The amendments to ch 25 pertain to the regional service system related to mental health and disability services. In response to an inquiry from Rep. Pettengill, Ms. Armstrong explained the membership and purpose of the Olmstead Consumer Task Force. In response to an inquiry from Sen. Chelgren, Mr. Shults stated that the regions are ahead of schedule in their compliance with criteria related to formation, initial criteria, initial department approval, and submission of 28E agreements and that approval by the department is in process. In addition, Mr. Shults explained the statewide process of equalization, including the \$47.28 allocation per county resident.
- ARC 1185C No questions on proposed amendments to 78.1(20)"a" regarding Medicaid coverage for transplants.
- ARC 1183C No questions on proposed amendments to ch 86 concerning the healthy and well kids in Iowa (HAWK-I) program.

Human Services Department (continued)

Committee review of emergency rule making Ms. Freudenberg presented for committee review the two emergency rule makings listed below, with accompanying Notices of Intended Action, and requested committee approval of the rule makings prior to emergency adoption. (Note: Rule reference numbers shown were assigned by the department for purposes of review and discussion.)

14-091 Amendments to chs 51 and 52 concern the annual cost-of-living increase (COLA) for the state supplementary assistance program.

Motion to approve Sen. Chelgren moved approval of the emergency rule making.

Motion carried On a voice vote of 10 to 0, the motion carried.

14-093 New 75.30 pertains to the reinstatement of the Iowa Medicaid lock-in program. Ms. Freudenberg confirmed for Sen. Chelgren that no changes have been made to the rule as originally set forth in ch 76. Ms. Vermeer clarified for Sen. Jochum the necessity for the inclusion of the lock-in rule and will provide additional background information regarding the rule, including the number of currently enrolled Medicaid members.

Motion to approve Rep. Smith moved approval of the emergency rule making.

Motion carried On a voice vote of 10 to 0, the motion carried.

DENTAL BOARD Melanie Johnson represented the board.

ARC 1194C No action on amendments to ch 29 pertaining to sedation and nitrous oxide inhalation analgesia. Rep. Pettengill commended the board for ensuring the care of the patient through the inspection of facilities where moderate/deep sedation and general anesthesia procedures are provided.

MEDICINE BOARD Mark Bowden represented the board.

ARC 1187C No action on amendments to chs 8 to 10 pertaining to fees for licensure.

ARC 1188C No action on amendments to ch 14 pertaining to the Iowa physician health committee. Mr. Bowden clarified for Sen. Horn the process of physician appeals of board actions.

PUBLIC HEALTH DEPARTMENT Jill France represented the department.

ARC 1074C At the October meeting, the committee imposed a 70-day delay on 95.6(2) regarding overpayments (IAB 10/2/13). Ms. France reported that the department intends to resolve the 70-day delay by rescinding 95.6(2) and adopting a new subrule in lieu thereof. Ms. France distributed copies of proposed new 95.6(2), which reads as follows: "Any overpayment of less than \$5 received by the state registrar for the copying of or search for vital records or for the preparation or amending of a certificate shall not be refunded and shall be retained by the department." Sen. Smith expressed concern that the department had apparently not considered the alternative of returning all overpayments.

PUBLIC SAFETY DEPARTMENT Amber Markham, Rich Bolten, Brian Bishop and David Ruffcorn represented the department.

ARC 1198C Proposed amendments to chs 301 and 303 pertain to the adoption by reference of the 2012 energy conservation code. In response to inquiries from Rep. Pettengill, Mr. Bishop explained that the adoption of the 2012 energy conservation code may make federal funding of \$5 million available to the state, and Mr. Ruffcorn stated that the \$1,800 cost to a home purchaser for compliance would be recouped in energy savings in approximately three and one-half years. In addition, Mr. Ruffcorn described the makeup of the stakeholder groups that provided input on the proposed amendments.

VETERANS AFFAIRS, IOWA DEPARTMENT OF Jodi Tymeson represented the department.

ARC 1157C The amendments to ch 10 pertain to the Iowa veterans home. The rule making was held over from the November meeting at which the committee imposed a 70-day delay. In response to an inquiry from Sen. Jochum, Ms. Tymeson clarified the basis for the amendment in 10.40(1)"f" regarding continuously disruptive behavior.

Motion Rep. Vander Linden moved that the 70-day delay be lifted.

Motion carried On a voice vote of 9 to 0, the motion carried.

PROFESSIONAL LICENSURE DIVISION Tony Alden represented the division.

- ARC 1192C No action on chs 221 and 225 and amendments to 5.15 and ch 224 pertaining to the licensure, discipline and continuing education of podiatrists, orthotists, prosthetists, and pedorthists. Mr. Alden summarized the changes in licensure fees.
- Discussion pertained to the purpose for the increases in licensure fees, the reason for a separate board for podiatry, and the structure and division of staff responsibilities. In response to committee members' questions, Mr. Alden stated that the fee increases will allow the board to be self-sustaining and that licensees and their respective professional organizations were not opposed to the fee increases.
- Motion to refer Sen. Chelgren moved a general referral of ARC 1192C.
- Motion carried On a voice vote of 8 to 1, the motion carried.
- ARC 1199C No questions on proposed amendments to 222.3(2) regarding continuing education for podiatrists.

UTILITIES DIVISION Cecil Wright represented the division.

- ARC 1169C Proposed amendments to chs 10, 15, 19, 20, 25 and 45 pertain to natural gas and electric safety standards and to compressed natural gas providers. In response to an inquiry from Sen. Chelgren, Mr. Wright described the providers of compressed natural gas that have sought board certificates.

REVENUE DEPARTMENT Victoria Daniels and Julie Roisen represented the department.

- ARC 1196C No action on amendments to 71.1(3) pertaining to algae cultivation and production related to the valuation of agricultural real estate.
- ARC 1200C Proposed 80.30 pertains to the business property tax credit. In response to an example from Sen. Chelgren, Ms. Roisen explained one of the statutory definitions of contiguous parcels.
- Committee business** The minutes of the November 8, 2013, meeting were approved.
- The next meeting was scheduled for Friday, January 10, 2014, at 9:30 a.m.
- Adjourned The meeting was adjourned at 12:25 p.m.

Respectfully submitted,

Stephanie A. Hoff

APPROVED:

Chair Dawn Pettengill

Vice Chair Wally Horn